

Shaul Levy

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHAUL LEVY,

Plaintiff,

vs.

DEPOSITION OF:
SHAUL LEVY

LAW OFFICES OF J. HENRY NIERMAN,
J. HENRY NIERMAN and RECOVERY OF JUDGMENT LLC,

Defendants.

- - - - -

TRANSCRIPT of the stenographic notes of the
proceedings in the above-entitled matter, as taken by
and before STACEY J. ORLICK, a Certified Shorthand
Reporter, License No. XI00226700, and Notary Public of
the State of New Jersey, held via Zoom, on October 22,
2020, commencing at 10:53 a.m.

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2

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1 S H A U L L E V Y, residing at 2899 Collins Avenue,
2 Miami Beach, Florida 33140, having been duly sworn by
3 the Notary Public, testified as follows:

4 EXAMINATION BY MR. NIERMAN:

5 Q. Good morning, Mr. Levy. My name is Joseph
6 Nierman. I'm a pro se defendant in an action in federal
7 court which is encaptioned Levy versus Nierman. In
8 layman's terms it means you are suing me. I'm going to
9 be asking you a series of questions today and I ask you
10 wait until I finish asking my question before you
11 respond even if you think you know where I'm going, and
12 that you keep all of your answers verbal rather than
13 just shaking your head or gesticulating in one manner or
14 another. I ask that you not interrupt me not because of
15 my ego, but rather we can have a clear transcript and
16 it's easier for the court reporter to take down
17 everything we are saying. Do you understand these
18 instructions?

19 A. Yes.

20 Q. If at any time I ask you a question and you do
21 not understand, state so and I will try and rephrase it
22 in a way that you comprehend. Do you understand?

23 A. Yes.

24 Q. If at any time you need to take a break, please
25 feel free to ask for one. I would just ask that you

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1 answer any pending questions before you take such a
2 break and taking a break could be to consult with your
3 counsel, but again, if there's a pending question I ask
4 that you answer that question before you take such a
5 break. Do you understand?

6 A. Yes.

7 Q. What's your name?

8 A. Shaul Levy.

9 Q. How do you spell that?

10 A. S-h-a-u-l L-e-v-y.

11 Q. Do you go by any other names?

12 A. I have a nickname of Charly.

13 Q. How is that spelled?

14 A. C-h-a-r-l-y.

15 Q. Is that your legal name or not?

16 A. No, just an easy name.

17 Q. Have you ever gone by the name of Guy, G-u-y.

18 A. No.

19 Q. No one ever called you Guy?

20 A. No.

21 Q. Charly Guy?

22 A. No.

23 Q. You said you live on Collins Avenue in Florida?

24 A. Yes.

25 Q. How long have you been living there?

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1 A. Many years.

2 Q. Can you be more specific, please?

3 A. Three, maybe three, four.

4 Q. You said you lived there for the last three or
5 four years?

6 A. Yes.

7 Q. Do you own or rent your home?

8 A. Own.

9 Q. When did you purchase that home?

10 A. About --

11 MR. NAHOUM: I'm going to object here. Let's
12 get this out early. If we are going to head down the
13 path are of debtor exam, I'm going to stop it in its
14 tracks.

15 MR. NIERMAN: He said he doesn't know how long
16 he has been living there. I'm trying to get that
17 information so we can understand where he has been
18 living and when.

19 MR. NAHOUM: You can answer.

20 A. Maybe about five years ago.

21 Q. Around 2015?

22 A. Around there, yeah.

23 Q. Do you live alone?

24 A. No.

25 Q. Who lives with you?

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1 A. I'm married with kids.

2 Q. What is your wife's name?

3 A. Is that relevant?

4 Q. It doesn't matter if it's relevant. Answer the
5 question.

6 MR. NAHOUM: You can answer it.

7 A. Dessa, D-e-s-s-a.

8 Q. How many children do you have?

9 A. Five.

10 Q. Do you work from home or you do you work in an
11 office?

12 A. Work in an office.

13 Q. Where do you work?

14 A. I work at Brilliance Jewels.

15 Q. Where are they located?

16 A. Miami.

17 Q. Do you own that business?

18 A. No.

19 Q. How long have you been working at Brilliance
20 Jewels?

21 A. Seven years, six years, around there.

22 Q. Where did you live before you lived in your
23 current address?

24 A. 5757 Collins Avenue.

25 Q. How long were you living there?

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1 A. Two years.

2 Q. Where were you living before that?

3 A. I forgot the address. 100 Lincoln Road, the
4 address.

5 Q. Where is that?

6 A. Collins Avenue.

7 Q. That's also on Collins Avenue? How long were
8 you living there?

9 A. Sorry?

10 Q. When were you living there?

11 A. Before that.

12 Q. Can you give me a year?

13 A. Approximately eight years ago.

14 Q. How long were you living there?

15 A. Two years.

16 Q. When you say you were living there eight years
17 ago, so you moved in there roughly eight years ago?

18 A. Yeah, eight years ago.

19 Q. You moved to Florida eight years ago?

20 A. Yes.

21 Q. Where were you living before you moved down to
22 Florida?

23 A. The big city.

24 Q. What is the big city?

25 A. New York.

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1 Q. We are back now to around 2012 that you moved
2 down to Florida?

3 A. Yeah.

4 Q. Where in New York were you living before you
5 moved down to Florida?

6 A. In Brooklyn.

7 Q. What is the address where you were living?

8 A. I don't remember.

9 Q. How long were you living there?

10 A. Two years.

11 Q. Did you own or rent your residence in Brooklyn?

12 A. Rent.

13 Q. What was the name of your landlord?

14 A. I will get back to you on that.

15 Q. I'm asking you to answer the question, please.

16 A. I don't know.

17 Q. You don't know where you were living?

18 A. I know where I was living. I don't remember.

19 It's many years ago.

20 Q. Are you familiar with 635 West 42nd Street,
21 apartment 19D in New York, New York?

22 A. Can you repeat it again?

23 Q. The address is 635 West 42nd Street, apartment
24 19D, New York, New York.

25 A. When do I need to remember this?

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1 Q. I'm asking you if you are familiar with this
2 address at all?

3 A. I lived in so many places in New York I have to
4 look it up.

5 Q. Did you ever live at that address?

6 A. I have to look it up.

7 Q. Did you own any property in New York?

8 A. No.

9 Q. You owned no real property in New York City?

10 A. No, no property.

11 Q. Are you familiar with an individual named Matt
12 Morrison?

13 A. Sounds familiar.

14 Q. Does it sound familiar that he was your landlord
15 at one point?

16 A. Maybe.

17 Q. I'm looking for a yes or no.

18 A. I don't have exact. You ask me questions of
19 many years ago. I don't have it in front of me, I don't
20 have answer. If you want me to get back to you. You
21 want to take an answer from me on something I don't
22 remember, so how exactly do you want me to answer it?

23 Q. Are you familiar with an individual named Andy
24 Yen?

25 A. No.

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1 Q. You having difficulty remembering so I want to
2 make sure that we are clear here. Are you currently
3 suffering from dementia, alzheimer's or any kind of
4 medical condition that would affect your memory?

5 A. Not that I know.

6 Q. What is your date of birth?

7 A. February 13, 1974.

8 Q. That would make you 46 years old; is that
9 correct?

10 A. Yes.

11 Q. Have you taken any medication within the last 24
12 hours which might have a side affect of affecting your
13 memory?

14 A. I took it, I don't know, this morning.

15 Q. Have you taken any other medication which might
16 have affected your memory?

17 A. No.

18 Q. Within the last 24 hours, did you have alcohol,
19 recreational drugs, or any type of substance that might
20 impair your memory?

21 A. No.

22 Q. As you sit here today, do you have any reason to
23 believe that your memory would be impaired?

24 A. No.

25 Q. I provided to your counsel a list of exhibits

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1 and asked that you print them out and have them ready
2 for you for this deposition. Do you have them with you?

3 A. No.

4 Q. I need you to be looking at these exhibits in
5 order for you to proceed with this examination, so I'm
6 going to ask did you get -- do you have those e-mails
7 in. Your -- did you receive those e-mails?

8 MR. NAHOUM: Mr. Levy, check your e-mail and you
9 should see an e-mail from our office with some
10 attachments to it.

11 MR. NIERMAN: Let's take a five minute break
12 while he prints everything out.

13 (Break taken.)

14 Q. You said you work in your office. Where is that
15 located?

16 A. Miami.

17 Q. What's the address?

18 A. It's 36 Northeast 1st Street.

19 Q. I'm going to ask you to look at what I have
20 marked as Defendant's Exhibit-1 for purposes of
21 identification. That should have come up as a file
22 labeled Exhibit-1 for you. I would ask if you see that
23 there?

24 A. Can you tell me what it is?

25 Q. It's a page that looks like it's in landscape

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1 rather than portrait. It should look like this,
2 transcript of judgment. Have you ever seen this
3 document before?

4 A. Not that I remember, March 2010.

5 Q. I didn't understand your answer.

6 A. I don't remember this page.

7 Q. Have you ever been sued in housing court before?

8 A. In what?

9 Q. In housing court.

10 MR. NAHOUM: Do you have a specific housing
11 court or specific time frame in mind?

12 MR. NIERMAN: I'm referring specifically to New
13 York County housing court.

14 MR. NAHOUM: Time frame?

15 MR. NIERMAN: In April of 2010.

16 A. In April 2010? You know anything after this
17 period of time, when I was in New York everything is
18 very mixed and very hard for me to remember. I had a
19 lot of personal issues so this is why I'm having a hard
20 time.

21 Q. I'm not -- I'm only looking to find out issues
22 as they relate to this action.

23 A. I have in front of me the paper. I'm looking at
24 it. Let's go on to the questions.

25 Q. Fair enough. Have you ever been sued by a

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1 landlord before?

2 A. Yeah, I'm looking at it. It's in front of me.

3 Q. You recall being sued by this landlord?

4 A. I recall it, yeah, now that I'm looking at the
5 paper I do.

6 Q. Do you remember Matt Morrison now?

7 A. I don't. I really don't remember the names.

8 Q. Do you remember living at 635 West 42nd Street?

9 A. Yes, I do, I do.

10 Q. You were in apartment 19D?

11 A. That I don't remember.

12 Q. This was in or around 2010?

13 A. Should be around 2010, correct.

14 Q. Did you, yourself, go to court for this case?

15 A. That I don't remember.

16 Q. Did you ever hire a lawyer to defend you from a
17 lawsuit that was commenced against you by a landlord?

18 A. I don't remember.

19 Q. You remember that you had this lawsuit; is that
20 correct?

21 A. Now that I look at it, yes.

22 Q. Did you negotiate a settlement on this lawsuit?

23 A. Not that I remember.

24 Q. I'm going to ask you to look at the next page
25 now.

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1 MR. NAHOUM: Have we established what this
2 document is yet?

3 MR. NIERMAN: If you would like me to further
4 establish, this document seems to be a transcript of a
5 judgment that Mr. Morrison holds against you or held at
6 one point against you in the amount of \$8,748. Do you
7 see the amount of judgment there on the first page?

8 A. On this page, right?

9 Q. On the page before that.

10 A. Yeah, I see it.

11 Q. Do you see that this was entered by the clerk on
12 the 15th of April, 2010 in the lower right corner?

13 A. Yes.

14 MR. NAHOUM: I'm going to object to that. This
15 is a document which as a matter of fact speaks for
16 itself, but in particular it doesn't appear to have any
17 court seals or court stamp on it.

18 MR. NIERMAN: It seems to have the stamp of a
19 clerk in the lower right corner.

20 MR. NAHOUM: I don't see a seal on it, though.
21 Go ahead.

22 Q. I'm going to turn your attention to the next
23 page of Exhibit 1. Can you kindly read the top three
24 lines at the heading there?

25 A. My reading is bad. I can't read.

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1 Q. Does that mean that you do not know how to read?

2 A. I can, but very slow. My reading is very bad.

3 You won't get good sound out of me.

4 Q. This is not a test. I just want you to know
5 what's written here. If you could, read it slowly.

6 A. Where?

7 Q. The top three lines. It starts with civil
8 courts.

9 A. Civil Court of the New York County of New York.

10 Q. Then you see how there's part C there?

11 A. It doesn't look like a C, but that's okay.

12 Q. It says underneath that decision and judgment?

13 A. Yeah.

14 Q. If you look and you see this is a case if you
15 continue reading where it says Matt Morrison and it says
16 Morrison, Matt and Yen, Andy, do you see that?

17 A. Yes.

18 Q. They are labeled as petitioner and it says
19 against Levy, aka Shaul Guy, aka Charly Guy, aka Charly
20 Levy, do you see that?

21 A. I see that.

22 Q. Those are respondents. It says decision in
23 judgment is rendered?

24 A. One second. Who is Guy?

25 Q. I don't know, I'm asking you.

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1 A. I don't know, I never heard that name before.

2 Q. Just so we're clear. It says against Levy and
3 then they have all of those aka's and then at the end --

4 A. My name is not Levy. Charly Guy, never heard
5 that name.

6 Q. Is your name Shaul Levy?

7 A. Shaul Levy.

8 Q. It actually says Levy and if you leave out all
9 the aka's and you get to the comma at the end then it
10 says Shaul Levy beginning -- it's against Shaul Levy who
11 is also known as Shaul Guy or Charly Guy or Charly Levy.

12 MR. NAHOUM: Is there a question in all this?

13 MR. NIERMAN: I want to make sure we're on the
14 same page as far as understanding what this exhibit
15 says.

16 Q. Do you understand that, Mr. Levy?

17 A. Yes.

18 Q. If we could look a little further on this page,
19 do you see where it says decision and judgment is
20 rendered based upon a stipulation entered into by the
21 parties as follows and then there's a long reading here
22 where it says judgment of possession is granted in favor
23 of Morrison, Matt, Yen, Andy, and against Shaul Levy aka
24 Shaul Guy, aka Charly Guy, et cetera. Do you see all
25 that, Mr. Levy?

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1 A. Yes.

2 Q. Below that it says a counterclaim is granted in
3 favor of the respondent in the amount of zero dollars
4 and zero cents. Do you see that?

5 A. Yes.

6 Q. Is it possible you can come back so we can see
7 you?

8 A. Sorry.

9 Q. Did you file a counterclaim in this action?

10 A. I don't remember.

11 Q. As you sit here today, do you recall this
12 judgment being entered against you?

13 MR. NAHOUM: Objection as to form. You can
14 answer the question if you know the answer.

15 A. I don't remember.

16 Q. If you look at the bottom of the second page it
17 says entry of judgment?

18 A. Okay.

19 Q. It says judgment entered in accordance with the
20 above -- excuse me, I should have called your attention
21 to the middle section. I sort of skipped past it. I'm
22 going to strike my next question and we'll move to the
23 middle part. If you look in the center of the page
24 under the part where it says decision in judgment is
25 rendered as follows based upon a stipulation entered by

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1 the parties as follows and then it gives all your names,
2 and in the center there it says for a total amount of
3 \$8,700. Do you see that?

4 A. Yes.

5 Q. Then at the very bottom of the page it says
6 entry of judgment and it says judgment entered in
7 accordance with the above on 3/11/2010. Do you see
8 that?

9 A. Yes.

10 Q. It says a warrant issued to Marshall Riviera on
11 March 19, 2010. Do you see that?

12 A. Yes.

13 Q. After reviewing all that, do you recall this
14 judgment being entered by the clerk against you?

15 A. I don't remember.

16 Q. Do you remember negotiating with your landlord
17 about this case?

18 A. No, I don't remember.

19 Q. Have you ever stepped foot in housing court in
20 the City of New York?

21 A. I don't remember, no, I don't remember.

22 Q. Did you ever hear of Recovery of Judgment
23 before?

24 A. Explain yourself.

25 Q. Did you ever hear of Recovery of Judgment

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1 before?

2 A. What is it?

3 Q. I'm asking you if you heard of it.

4 A. No.

5 Q. Have you ever received a letter from Recovery of
6 Judgment?

7 A. A letter of Recovery of Judgment?

8 Q. A letter from Recovery of Judgment.

9 A. Are you talking -- I don't understand the
10 question.

11 MR. NAHOUM: He hasn't heard of them so maybe
12 you want to ask your question more specifically.

13 Q. Have you ever heard of a company identified as
14 ROJ.

15 A. What's the name?

16 Q. ROJ.

17 A. No, I don't remember, no.

18 Q. Did you ever get a letter from a company called
19 Recovery of Judgment?

20 A. A letter from Recovery of Judgment from a
21 specific person?

22 Q. Did you ever get a letter from a company called
23 Recovery of Judgment?

24 A. I have to look it up.

25 MR. NAHOUM: If there's a specific letter you're

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1 talking about, why don't you just show it to him? He
2 said he can't recall who they are.

3 A. You have to be more specific.

4 Q. It's a very specific question. It's a yes or no
5 if you recall receiving a letter.

6 A. I don't remember.

7 Q. Have you ever received a letter from the law
8 offices of J. Henry Nierman?

9 A. The letter I received, yes.

10 Q. Did you ever receive a letter from me?

11 A. What's your name?

12 Q. Joseph Nierman.

13 A. I'm looking at it, yes.

14 Q. When did you receive that letter?

15 A. It says here when I received it.

16 Q. Are you looking at some specific document right
17 now?

18 A. Yes.

19 Q. Are you looking at what was marked for purposes
20 of identification as Defendant's Exhibit 2?

21 A. That's a letter -- again.

22 Q. It says Law Offices of J. Henry Nierman across
23 the top?

24 A. I have the letter in front of me, yes.

25 Q. Do you want to hold that up in front of us so we

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1 can see what you are looking at?

2 (Shows document).

3 Q. Did you ever receive that letter?

4 A. I received that with a bunch of letters.

5 Q. What does that mean with a bunch of letters?

6 A. I received it in my mail.

7 Q. When did you receive that letter?

8 A. Sometime a few years ago. I don't have exact
9 dates, but it's written here.

10 Q. Did you receive that mail yourself or someone
11 else gave it to you?

12 A. No, I received it myself.

13 Q. Where did you receive this letter?

14 A. At 5757 Collins Avenue.

15 Q. What did you do when you saw this letter?

16 A. I opened it, I read it.

17 Q. Can you look at the camera here?

18 A. What happened when I received the letter I
19 became very emotional, I was very disturbed because this
20 came out of no where, I don't even remember this
21 happening, and it was devastation in the house. We just
22 had a newborn girl, me and my wife, and I was panicking.

23 Q. When you say you were panicking, was there any
24 medical manifestation?

25 A. A lot of anxiety, a lot of fear.

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1 Q. How did that exhibit itself?

2 A. I didn't sleep the whole night. I remember
3 coming home late at night and I didn't sleep all night.

4 Q. How long did you feel this panic?

5 A. I felt this panic for a while until I was -- a
6 while.

7 Q. Can you be more specific, was it for hours,
8 days, weeks?

9 A. Days, days, even a week.

10 Q. Why did this cause anxiety?

11 A. There was a lot of fear in the letter put into
12 me.

13 Q. What type of fear, what was your fear?

14 A. The action that's going to be taken against me.

15 Q. What action did you think would be taken against
16 you?

17 A. People are going to knock on my door.

18 Q. And do what?

19 A. Threaten me.

20 Q. They were going to threaten you?

21 A. That's how I felt when I read the letter.

22 Q. Does it say anywhere in there that someone will
23 knock on your door and threaten you?

24 A. It said everything that I have is going to be
25 taken away from me.

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1 MR. NAHOUM: Can you be specific what letter we
2 are talking about?

3 A. The letter I received from you.

4 MR. NIERMAN: I'm going to enter this letter as
5 Plaintiff's Exhibit 2 for identification. I would like
6 to enter Plaintiff's Exhibit 1, the judgment that we
7 were referencing before into the record.

8 MR. NAHOUM: Can we identify this letter?

9 MR. NIERMAN: This e-mail that I forwarded which
10 is the letter that he held up there. I would like that
11 letter entered into the record as Defendant's Exhibit 2.

12 MR. NAHOUM: The court reporter cannot take down
13 him showing a letter to the screen. Why don't we
14 describe what this letter is?

15 MR. NIERMAN: I appreciate your assistance in my
16 transference of my deposition background toward video so
17 thank you. Just so we can be clear about what this
18 letter is, I'm going to -- since you asked me before to
19 read to you, would you prefer I read or would you rather
20 read?

21 A. I prefer you read it.

22 Q. Just so we are on the same page we are looking
23 at a page which says on the very top in blue lettering
24 case 7:17cv-04022-NSR-JCM Document 1-2 filed 5/30/17
25 page two of two, do you see that?

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1 A. Yes.

2 Q. I'm going to ask you to confirm everything that
3 I'm reading here and then the heading of the letter says
4 Law Offices of J. Henry Nierman, 39 West 29th Street,
5 New York, New York 10001. Do you see this?

6 A. Right.

7 Q. It's a letter that seems to be dated December
8 10, 2016 and addressed to Shaul Levy regarding Matt
9 Morrison versus Shaul Levy.

10 A. Yes.

11 Q. Then it says it's also regarding a judgment
12 entered on 3/11/2010 in the current amount of
13 \$13,990.08. Do you see that?

14 A. Yes.

15 Q. It's addressed to Mr./Mrs. Levy and it says,
16 "enclosed herein please find a subpoena duces tecum
17 directing you to appear for a post-judgment deposition
18 on December 26, 2016 at 10:00 a.m." and it's signed Very
19 Truly Yours, Joseph Nierman, legal counsel. Do you see
20 that?

21 A. Yes.

22 MR. NIERMAN: I ask that get entered into the
23 record as Defense Exhibit 2.

24 Q. You said when you received this letter you faced
25 great anxiety. Did you seek medical attention for the

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1 anxiety you suffered?

2 A. No.

3 Q. Did you ever consult with anyone of any kind
4 about this anxiety that you sustained as a result of
5 receiving this letter?

6 A. No.

7 Q. Did you ever tell anyone that you were suffering
8 from anxiety as a result of this letter?

9 A. Yes.

10 Q. Who did you tell?

11 A. My wife.

12 Q. What was her reaction?

13 A. Same as mine, worried.

14 Q. When did that fear go away?

15 A. I don't really remember. It's a bit blurry.

16 Q. Did you feel this anxiety for more than two
17 days?

18 A. More than that.

19 Q. Did you feel it for more than three days?

20 A. More than that.

21 Q. Did you feel it for more than a month?

22 A. No.

23 Q. Did you feel this anxiety for more than seven
24 days?

25 A. Around.

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1 Q. Around seven days. Was it more than 10 days?

2 A. Around.

3 Q. I'm trying to get to a point that we say it was
4 less than that. Did you feel this anxiety for more than
5 14 days, two weeks?

6 A. I would say around.

7 Q. On a scale of one to ten, how high was your
8 anxiety a week after you received this letter as a
9 result of this letter -- withdrawn.

10 You said you felt anxiety for a period of a week
11 or two weeks as a result of this letter; is that
12 correct?

13 A. Yes.

14 Q. Let's go one to ten, ten being the most, how
15 much anxiety have you ever faced, and one being no
16 anxiety at all, how much anxiety did you feel upon
17 receiving this letter?

18 A. I would say the first few days it was very heavy
19 anxiety. It's nine, ten.

20 Q. After a week, how high was your anxiety over
21 this letter?

22 A. Eight, seven.

23 Q. After two weeks how high was your anxiety with
24 this letter?

25 A. Still eight, seven.

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1 Q. After three weeks how high was your anxiety with
2 this letter?

3 A. It got better.

4 Q. Was there a cause that made it get better?

5 A. I spoke to my counsel.

6 Q. Just to be clear, you felt anxiety until you
7 spoke to your lawyer?

8 A. Yes.

9 Q. When you say your lawyer, do you mean Daniel
10 Schlanger?

11 A. Yes.

12 Q. I don't want to get into particulars of your
13 conversation with your lawyer. I'm not looking to
14 breach attorney client privilege, but by the time you
15 finished your meeting with your lawyer did you feel
16 confident this letter meant no threat to you?

17 A. No.

18 Q. You did not feel confident?

19 A. No.

20 Q. You were still worried after meeting with your
21 lawyer?

22 A. Yes.

23 Q. What was your fear after meeting with your
24 lawyer?

25 A. The usual, I still was worried. The fear was so

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1 bad when I received the letter that I was trying to get
2 out of it.

3 Q. Have you ever suffered from anxiety before?

4 A. Yeah.

5 Q. Have you ever taken medication for anxiety?

6 A. No.

7 Q. Have you ever received bills before?

8 A. Yes.

9 Q. Do you feel anxiety when you get bills?

10 A. No.

11 Q. What about this made you feel more anxiety than
12 a bill?

13 A. The approach of the letter.

14 Q. What about the approach of the letter?

15 A. The way it was written.

16 Q. What about the way it was written, what filled
17 you with anxiety?

18 A. The fear that everything is going to be taken
19 away from me.

20 Q. What about this letter made you feel that
21 everything was going to be taken away from you?

22 A. The judgment.

23 Q. You are saying the existence of the judgment is
24 what made you afraid?

25 A. The letter, whatever the letter stated.

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1 Q. I'm asking you what about the letter made you
2 feel anxious?

3 A. The judgment.

4 Q. I feel like we are going in circles here, so you
5 say you were caused anxiety by this letter so I'm going
6 to ask you to review this letter and ask you what
7 specific part of this letter caused you anxiety?

8 MR. NAHOUM: This letter is an incomplete
9 document. Why don't you show him the subpoena that
10 accompanied the letter?

11 A. That's what I'm talking about, yes.

12 Q. What about the subpoena that accompanied the
13 letter? I don't have the subpoena in front of me right
14 now, but we can pause and I can pull up the subpoena.

15 MR. NAHOUM: It's your deposition. You are
16 asking him questions about a document that references
17 another document enclosed with it. He testified this
18 letter gave him anxiety. You are leaving out the other
19 half of the document. Show him the subpoena.

20 MR. NIERMAN: Let's do this. We'll take a break
21 for five minutes.

22 (Break taken.)

23 Q. That attachment I'm going to have to look to
24 have that marked as Defense Exhibit 5. Mr. Levy, we
25 just -- I believe you were just forwarded a document

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1 which says on its front or its top if we skip the blue
2 lettering it says Civil Court of the County of New York?

3 A. Yes.

4 Q. Matt Morrison Plaintiff versus Shaul Levy, 5757
5 Collins Avenue?

6 A. Yes.

7 Q. On the right said it says 056136-2010 and then
8 subpoena duces tecum. Do you see all that?

9 A. Yes.

10 Q. Can you hold that up for us just so I'm going to
11 ask this get marked and entered into the record as
12 Defense Exhibit 5.

13 Are there a number of pages that you have there,
14 Mr. Levy?

15 A. Five, six, six.

16 Q. Six pages?

17 A. Yes.

18 Q. This exhibit is a six page exhibit. Do you see
19 that?

20 MR. NAHOUM: The copy that you have, Mr. Levy,
21 you could tear off this top page that says Exhibit A.
22 This was a document previously submitted in this lawsuit
23 as an exhibit so you have the cover sheet on there. The
24 document itself is five pages, right?

25 THE WITNESS: Five pages itself, yeah.

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1 Q. Just so that we are clear and on the same page,
2 this first page we are looking at here in the upper
3 corner in blue lettering it says page two of six. Do
4 you see that?

5 A. I'm sorry?

6 Q. In the upper right corner you see where it says
7 page two of six?

8 A. Yes.

9 Q. The next page is marked page three of six. Do
10 you see those pages?

11 A. Yes.

12 Q. Collectively this will be marked for
13 identification as Defense Exhibit 5.

14 Was this exhibit attached to the letter that we
15 were identifying before?

16 A. Yes.

17 Q. Was this what caused you anxiety?

18 A. Yes.

19 Q. What about this caused you anxiety?

20 A. Do you want to read it?

21 Q. No, I want to know what part of it caused
22 anxiety.

23 A. Why don't you start reading it?

24 Q. Do you want to tell me what part caused you the
25 anxiety?

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1 A. Like I said before, my English is not, my
2 reading is not so well so bear with me.

3 Q. I will be patient and before we continue were
4 there any other attachments to the letter or was this
5 the letter in total that you received from me?

6 A. As far as I recall it's what I received. I
7 don't remember.

8 Q. Collectively between Defense Exhibit 2 and
9 Defense Exhibit 5 which parts of this caused you anxiety
10 and you can review it and take your time?

11 A. The whole thing.

12 Q. Read to me the parts that caused you anxiety.

13 A. The whole letter. I want to note that the whole
14 letter caused me anxiety and because of that for two
15 weeks I wasn't functioning.

16 Q. What does that mean?

17 A. So much anxiety.

18 Q. Did you read the letter? Sir, I'm asking you to
19 answer a question.

20 MR. NAHOUM: Objection. He has answered your
21 question. You're not happy with his answer.

22 A. I'm holding it right now and having anxiety
23 again.

24 Q. I'm asking you to read the words that caused you
25 anxiety.

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1 MR. NAHOUM: I'm going to state my objection.

2 Mr. Nierman, you have asked the same question over and
3 over again and he has answered. You're not happy with
4 his answer. If you're not happy with his answer, ask
5 your question differently.

6 Q. I'm asking you to tell me which words in this
7 letter caused you anxiety.

8 MR. NAHOUM: Objection.

9 A. The whole letter.

10 Q. Read to me the words that caused you anxiety.

11 MR. NAHOUM: Objection.

12 MR. NIERMAN: This is the whole root of the
13 claim of the case. If he is telling me the whole
14 letter --

15 Q. Was it the envelope that caused you anxiety?

16 A. The whole letter. When I opened that and I saw
17 the subpoena with the judgment the whole thing, every
18 word in this letter, so you can state that from
19 beginning of the letter to the end of the letter
20 everything caused anxiety, the whole thing. I answered
21 your question.

22 Q. What is a subpoena?

23 A. I'm sorry?

24 Q. What is a subpoena?

25 A. I don't know.

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1 Q. You don't know what a subpoena is?

2 A. No.

3 Q. Do you know what the word subpoena duces tecum
4 means?

5 A. No.

6 Q. Did the words subpoena duces tecum cause you
7 anxiety?

8 A. Explain your question.

9 Q. You said you don't know what the meaning of
10 subpoena or subpoena duces tecum is. I'm asking you if
11 those words cause you anxiety.

12 A. Subpoena?

13 Q. Yes.

14 A. Explain your question again. I'm getting lost
15 here.

16 Q. I'm asking you if the words subpoena duces tecum
17 cause you anxiety.

18 A. I don't know what that is. I know subpoena is
19 something from court when they subpoena you. That I
20 know, but I don't know what's the other word you were
21 using.

22 Q. Before I asked you whether you knew what
23 subpoena meant.

24 A. Everybody knows what subpoena means but the
25 second word that you were using.

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1 Q. I'm trying to understand your comprehension of
2 English because you said you don't understand English.
3 I'm simply talking the word subpoena is not Greek. I'm
4 asking you -- I'm trying to figure out what you
5 understand and what you don't understand so I can't
6 spoon feed you what you understand and what you didn't
7 understand. When you received this letter what did you
8 understand it meant?

9 A. It meant my life was over.

10 Q. Does it mean that someone will come and kill
11 you?

12 A. No, it means they are going to take everything
13 away from me.

14 Q. Who is they?

15 A. Whoever is suing me.

16 Q. You thought whoever was suing you would be
17 taking everything away from you? Did you think this was
18 a start of a new legal action?

19 A. All I read is everything that's going to happen
20 to me.

21 Q. What is going to happen to you?

22 A. From one to 26.

23 Q. What's from one to 26?

24 A. Why don't you open it and look at it?

25 Q. Number one to 26 I'm assuming you are referring

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1 to Defense Exhibit 5 where you have a list of a number
2 of questions?

3 A. I thought this is the end of it.

4 Q. That's not really answering my question. Please
5 be specific. We'll take it step by step and we'll go
6 slow. I'm not looking to badger you. I'm looking to
7 understand what was causing you anxiety.

8 A. The whole thing was causing me anxiety.

9 Q. I'm asking what did you think exactly was going
10 to happen to you? Avoid using euphemisms.

11 A. What is euphemisms?

12 Q. Don't exaggerate. You said your life was over
13 meaning that you thought you were going to die?

14 MR. NAHOUM: Objection. You're not going to
15 tell him what his answer should be. Ask him a question
16 and he will give you an answer.

17 MR. NIERMAN: I already asked him if he thought
18 he was going to die and he said no, so clearly when he
19 said he thought his life was over he was exaggerating.

20 MR. NAHOUM: Ask him a question.

21 Q. What did you mean?

22 A. I meant everything would be taken away from me.

23 Q. Who would take everything away from you?

24 A. Whoever was suing me.

25 Q. Did you think people were going to show up at

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1 your house and take things from you?

2 A. Absolutely.

3 Q. When you say that you thought your life was
4 over, you mean to say that you thought people were going
5 to take away your money or possessions, is that what you
6 meant?

7 A. Exactly.

8 Q. Did you have any other fears at all?

9 A. If I have any fears? I had a lot of fears.

10 Q. Such as? Please tell me.

11 A. I was lost once I got the letter because I
12 remember I came home after work and as soon as I opened
13 the mail and I saw that a couple of weeks I was lost,
14 like a zombie.

15 Q. I don't want to mischaracterize your testimony
16 so I want to make sure you and I are on the same page.
17 When you say you thought your life was over, do you mean
18 you felt threatened that you were going to lose some or
19 all of your financial assets?

20 A. Yes.

21 Q. Did you have fear?

22 A. I had a lot of fear.

23 Q. I'm asking you what you were afraid of, not how
24 you felt. I'm asking you what was causing you fear.

25 A. The letter caused me the fear.

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1 Q. You said that, sir. I'm asking you to answer my
2 question, please. I move to strike as nonresponsive.

3 I'm asking you what damage you felt could come to you?

4 A. That everything would be taken away from me.

5 Q. Did you feel any other damage would happen to
6 you besides everything?

7 A. I'm probably going to lose everything I have.

8 Q. Besides loss of possessions, of money, did you
9 think anything else would happen to you? It's a yes or
10 no question.

11 A. Can you be more specific?

12 Q. No, I'm asking you what you thought.

13 A. I had a fear that everything was going to be
14 taken away from me.

15 Q. You mean your possessions and your money; is
16 that correct?

17 A. Exactly.

18 Q. Did you have a fear of anything else happening
19 to you?

20 A. I had a fear that somebody is going to be
21 knocking on the door.

22 Q. And doing what?

23 A. Coming after me because of this letter.

24 Q. When you say coming after you, do you mean
25 physically trying to hurt you or assault you or do you

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1 mean take your possessions?

2 A. Take my possessions.

3 Q. Your anxiety and fear was exclusively that you
4 were going to be losing your money and/or possessions?
5 I'm not trying to minimize your fear. I'm trying to
6 make sure. That was the extent of your fear; is that
7 correct?

8 A. Yes.

9 Q. Without revealing to me your conversation with
10 your lawyer, did your lawyer tell you that you might
11 lose all your possessions?

12 MR. NAHOUM: Objection, stop there. Don't
13 answer that.

14 MR. NIERMAN: I'm trying to find out --

15 MR. NAHOUM: You asked him what his lawyer told
16 him. Stop right there.

17 MR. NIERMAN: I will withdraw the question and
18 rephrase.

19 Q. After you met with your lawyer, did you still
20 think you could lose some of your possessions as a
21 result of this letter?

22 A. Yes.

23 Q. Was there any follow up by me or any of the
24 defendants herein to this letter?

25 A. I don't remember.

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1 Q. Did you ever hear from me again?

2 A. I don't remember.

3 Q. Did you ever receive a letter from the Law
4 Offices of J. Henry Nierman?

5 A. I don't remember.

6 Q. Did you ever receive a letter from Recovery
7 Judgments?

8 A. I don't remember.

9 Q. Prior to receiving this letter, did you ever
10 receive any contact from me personally?

11 A. I don't remember.

12 Q. Did you ever hear my name before you received
13 this letter?

14 A. I don't remember.

15 Q. Did you ever hear the Law Offices of J. Henry
16 Nierman before you received this letter?

17 A. I don't remember.

18 Q. Did you ever hear of Recovery Judgment before
19 you saw this letter?

20 A. Rephrase the question.

21 Q. Did you ever hear of Recovery Judgment before
22 you received this letter?

23 A. In general?

24 Q. Yes.

25 A. Yes.

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1 Q. You heard of Recovery Judgment before you
2 received this letter?

3 A. Yes.

4 MR. NAHOUM: Objection, let's please clarify
5 whether you're talking about an entity or the phrase
6 recovery judgment?

7 A. The phrase.

8 Q. I appreciate that clarification, thank you,
9 counsel. Did you ever hear of an entity, a corporation
10 called Recovery Judgment before you received this
11 letter?

12 A. No.

13 Q. Did anybody contact you about this letter after
14 you received this letter?

15 A. I don't remember.

16 Q. How long after you received this letter did you
17 contact an attorney?

18 A. About two weeks. I don't remember. I don't
19 know the exact dates.

20 Q. You said this letter caused you anxiety and when
21 I say this letter I'm referring to defense Exhibit 2.
22 You said this letter caused you great anxiety; is that
23 correct?

24 A. Yes.

25 Q. Why did you wait before consulting an attorney?

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1 A. I live in Miami and this is in New York.

2 Q. What does this mean?

3 A. It means it took me time to find.

4 Q. To find what?

5 A. A lawyer.

6 Q. What methods did you use to find a lawyer?

7 A. I went on line.

8 Q. You searched on Google to find a lawyer?

9 A. Yes.

10 Q. What type of Google search did you put in to
11 find a lawyer?

12 A. I don't remember.

13 Q. It took you a week on line to find a lawyer in
14 New York?

15 MR. NAHOUM: Objection to form.

16 Q. Did it take you a week of searching on line to
17 find a lawyer in New York?

18 A. About.

19 Q. How many hours a day did you spend looking for a
20 lawyer in New York?

21 MR. NAHOUM: Objection to form. You can answer.

22 Q. How many hours did you spend on line trying to
23 find a lawyer in New York?

24 A. I don't remember.

25 Q. Did you spend more than 10 hours looking for a

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1 lawyer?

2 A. I don't remember.

3 Q. Did you spend more than 50 hours searching for a
4 lawyer?

5 A. I don't remember.

6 Q. You think you might have spent 50 hours
7 searching for a lawyer, Mr. Levy?

8 A. I don't remember.

9 Q. Did you spend more than three months looking for
10 a lawyer?

11 MR. NAHOUM: Objection.

12 MR. NIERMAN: He is saying I don't remember and
13 he is simply trying not to answer a question so I'm
14 asking him a very straight forward question.

15 MR. NAHOUM: He gave you an answer.

16 Q. Did you spend more than 20 hours looking for a
17 lawyer in New York in order to defend this letter that
18 you received?

19 A. I don't remember.

20 Q. Did you spend more than 50 hours?

21 MR. NAHOUM: Objection.

22 MR. NIERMAN: I'm trying to verify how long he
23 spent trying to find a lawyer.

24 Q. Did you spend more than 50 hours on line looking
25 for a lawyer in New York?

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1 A. I really don't remember.

2 Q. It might have been more than 50 hours?

3 A. I don't remember. It's three years ago.

4 Q. You said that you were suffering great anxiety?

5 A. Yes.

6 Q. Why would you wait a week to contact a lawyer?

7 MR. NAHOUM: Objection.

8 A. Searching for a lawyer.

9 MR. NAHOUM: He has answered this.

10 MR. NIERMAN: That's why I'm trying to find out
11 how long he has spent looking for this lawyer.

12 MR. NAHOUM: He answered.

13 Q. Have you spent more than 100 hours looking for a
14 lawyer -- withdrawn.

15 Did you spend more than 100 hours on line
16 searching for a lawyer in New York that can help you
17 responding to this letter we received marked for
18 identification as Defendant's Exhibit 2?

19 A. I don't remember.

20 Q. You said you spoke with your wife about your
21 anxiety that you had as a result of this letter?

22 A. Yes.

23 Q. When I say this letter, you understand I'm
24 referring to Defendant's Exhibit 2; is that correct?

25 A. We are talking about the two of six.

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1 Q. I'm talking about two exhibits, the cover letter
2 marked as Defendant's Exhibit 2 and Defendant's Exhibit
3 5 which is that five page document marked two of six,
4 three of six?

5 A. Yes.

6 Q. We are clear on that?

7 A. Yes.

8 Q. When you received this letter, did you talk to
9 your wife about it?

10 A. Yes.

11 Q. Did she make your anxiety better or worse?

12 A. She went into fear as well.

13 Q. Did she think you were going to lose everything?

14 MR. NAHOUM: Objection. You can answer if you
15 know.

16 A. She read the letter and she went into so much
17 fear.

18 Q. Did she ever try to help you find a lawyer in
19 response to the letter?

20 A. No.

21 Q. Did she tell you that you should look for a
22 lawyer?

23 A. Yes, of course.

24 Q. Did you feel any better at all after you
25 consulted a lawyer?

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1 A. You asked me this question already.

2 Q. I'm not sure what your answer was.

3 A. You asked me this and I answered.

4 Q. Mr. Levy, I have been very patient with you.

5 I'm asking you a simple question here.

6 A. I need to hear you. My speaker is very weak.

7 You don't need to get very upset.

8 Q. I'm asking you to answer a question. It's for

9 your lawyer to object, not you, so I'm asking you.

10 A. But you did ask me that question already.

11 MR. NAHOUM: Mr. Levy, if you know the answer

12 you can answer him.

13 Q. Did you feel any change in your anxiety after

14 you met with your lawyer?

15 A. No.

16 Q. You felt the exact same level of anxiety after

17 you finished talking with your lawyer as before?

18 A. Yes.

19 Q. Did you ever -- did you tell your lawyer a

20 judgment had been entered against you in housing court?

21 MR. NAHOUM: Objection, don't answer it. You

22 just asked him what you told his lawyer.

23 Q. How long after you met with a lawyer did you

24 retain -- strike that.

25 How did you first consult with your lawyer, was

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1 it by telephone or in person?

2 A. By telephone.

3 Q. Have you ever met with your lawyer face to face?

4 A. No.

5 Q. There came a point in time when you retained Mr.

6 Schlanger or plaintiff's counsel in response to this

7 letter?

8 A. What was the question?

9 Q. Did you ever hire a lawyer about this letter?

10 A. Again, what was the question?

11 Q. Did you ever hire a lawyer to defend this

12 letter?

13 A. Yes.

14 Q. How long after your first phone call with the

15 lawyer did you hire him?

16 A. I don't remember.

17 Q. Did you have multiple conversations with your

18 lawyer before you hired him?

19 A. I don't remember.

20 Q. Did you agree to hire your lawyer during your

21 first phone call with him?

22 A. I'm sorry?

23 Q. Did you agree to hire your lawyer during your

24 first phone call with him?

25 MR. NAHOUM: Objection. You are getting too

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1 close to the line here, Mr. Nierman. You are asking
2 questions about a strategy between a client and counsel.

3 MR. NIERMAN: I'm trying to get a time frame as
4 to when he consulted with his lawyer.

5 MR. NAHOUM: You are getting dangerously close.
6 I object to it.

7 MR. NIERMAN: I want to find out if he had this
8 anxiety that he alleges he had. I'm asking -- I want to
9 find out when he spoke with a lawyer and when he hired
10 his lawyer. That's all I'm asking. There's nothing
11 about his strategy, there's nothing about his
12 conversation with his lawyer.

13 MR. NAHOUM: He answered you that he couldn't
14 remember so be careful how you push him on the next
15 question.

16 Q. My question is, did you agree during your first
17 phone call you would hire Mr. Schlanger to be your
18 counsel?

19 A. I told you I don't remember.

20 Q. Did you hire Mr. Schlanger to serve as defense
21 in this letter or to serve in the capacity of suing me
22 or both?

23 A. Again the question. I'm sorry, I didn't get the
24 question.

25 Q. Let's take a step back. You are aware this is a

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1 litigation where you are suing me, correct?

2 A. Yes.

3 Q. That's different from hiring a lawyer to defend
4 from a lawyer that you received. Do you understand
5 that's different?

6 A. Okay.

7 MR. NAHOUM: Objection as to form.

8 Q. My point is that you can hire a lawyer to serve
9 as a shield to stop someone from coming after you or you
10 can hire a lawyer to be a sword so that you can go after
11 someone else. Do you understand that distinction?

12 MR. NAHOUM: You're not supposed to make points.
13 Ask questions.

14 MR. NIERMAN: I'm asking him about what he
15 understands of the scope of the representation of his
16 counsel.

17 MR. NAHOUM: I'm going to object and instruct
18 him not to answer to you what the scope of his
19 engagement is. It's protected by the attorney client
20 privilege. Don't answer it.

21 MR. NIERMAN: I have a right to know what you
22 were retained for. Maybe he doesn't know you started
23 this action.

24 MR. NAHOUM: It's protected by the attorney
25 client privilege. Don't answer that question.

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1 MR. NIERMAN: I don't believe it's protected by
2 the attorney client privilege. We are going to pause
3 this deposition right here.

4 Q. I want to go back to the level of anxiety that
5 you felt when you got the letter, and when I say the
6 letter it's both exhibits two and five, the letter and
7 the subpoena so just so I'm clear. If I asked this
8 before I apologize. Did you seek medical attention for
9 the anxiety?

10 A. No.

11 Q. Were you suffering from any type of heart
12 condition at the time that you received the letter?

13 A. I'm sorry, I couldn't hear you.

14 Q. Were you suffering from any type of heart
15 condition at the time you received the letter?

16 A. No.

17 Q. Have you ever suffered --

18 A. Not that I'm aware.

19 Q. Have you ever suffered from any type of heart
20 condition?

21 A. Not that I'm aware.

22 Q. Did this -- did receipt of this letter cause you
23 to suffer any type of heart condition that --

24 A. Not that I'm aware.

25 Q. I'm going to turn to what I marked in my

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1 exhibits as defense Exhibit 4 which is an eight page
2 document and it should say at the top in black lettering
3 United States District Court. It's an eight page
4 document.

5 A. Yes, I have it.

6 Q. Have you ever seen this document before?

7 A. Yeah.

8 Q. Just that we are on the same page as to what
9 this document says, you see it says United States
10 District Court Southern District of New York?

11 A. Yes.

12 Q. Below that it says Shaul Levy plaintiff and law
13 offices of J. Henry Nierman. Do you see that?

14 A. Yes.

15 Q. Do you see it's identified on the right side of
16 that caption complaint and your trial demanded?

17 A. Yes.

18 Q. Before today have you ever seen this document?

19 A. Yeah.

20 Q. When did you see this document?

21 A. I don't remember.

22 Q. Let's try and just narrow it down a little bit.
23 First did you see this document months ago or years ago?

24 A. I don't remember, sorry, I really don't.

25 Q. What caused you to see this letter?

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1 MR. NAHOUM: Objection.

2 MR. NIERMAN: Strike that. I don't like the way
3 I worded it.

4 Q. What were the circumstances where you saw this
5 document in the past?

6 A. When I consulted my lawyer.

7 Q. Did you review this document at that time?

8 A. Yes.

9 Q. Did you read through it?

10 A. You know my reading is bad. It took me time,
11 but as best of ability.

12 Q. Did you agree everything in this document was
13 accurate?

14 A. Rephrase your question.

15 Q. You reviewed this document you said, correct?

16 A. Yes.

17 Q. When you reviewed this document did you agree
18 that everything contained in here was truthful?

19 A. Yes.

20 Q. I'm going to call your attention -- I'm going to
21 ask this document be admitted on the record --

22 (The court has called.)

23 THE COURT: I have been briefed on the issue,
24 but if someone could tell me what the issue is so that I
25 can rule on it. Who is being deposed?

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1 MR. NIERMAN: I'm deposing the plaintiff Shaul
2 Levy. Perhaps it's easiest if the court reporter read
3 back the question that I asked her to mark and then we
4 can discuss what my objection is and whether my question
5 is improper. The issue that we were fighting over is
6 whether or not I have the right to inquire about the
7 nature and representation of plaintiff's counsel and
8 when they were retained and what purpose they were
9 retained.

10 (Question read back.)

11 THE COURT: Why did you object to this question?

12 MR. NAHOUM: The inquiry calls for an answer
13 regarding legal advice and case strategy and my concern
14 is it comes too close to breaching a privilege.

15 THE COURT: You would agree that he is entitled
16 to find out when he first contacted him?

17 MR. NAHOUM: I have no objection to that. In
18 fact, it has been asked.

19 THE COURT: Are you -- would you agree or not
20 agree to the question was what was the scope of the
21 representation?

22 MR. NAHOUM: I do have a problem with that
23 because it's said in the context of there being a
24 distinction between the subpoena and the FTPCA claim.
25 It was one or the other or both.

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1 THE COURT: What if the question is phrased what
2 was the scope of the representation, not in the context
3 of anything?

4 MR. NAHOUM: I would state the same objection
5 that the inquiry calls for an answer regarding legal
6 advice and case strategy.

7 THE COURT: Are you saying that there's never a
8 circumstance where someone can ask someone, and this
9 isn't a challenge. I'm trying to get to the problem
10 because once you get the legal advice and case strategy
11 I don't think Mr. Nierman would object to that. What he
12 is trying to figure out was, and there may or may not be
13 a way to say this, was like you hire someone one day to
14 represent you in a motor vehicle accident and a you hear
15 they offer you wills and then you go to that guy.

16 MR. NAHOUM: I would not find that
17 objectionable, but here the two are intimate. They are
18 not distinct engagements. These are very much related.

19 MR. NIERMAN: In the past he has admitted to the
20 courts there were two separate retainer agreements
21 entered into by the plaintiff with his counsel. One
22 that was the defense of the letter and the other was to
23 prosecute of the FTPCA. There were two payment
24 arrangements for the two, I would assume, so I'm trying
25 to find out when he hired them for each and I mean I

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1 would like to know if he laid out any money. I'm going
2 to be asking about that. I don't know if I will have
3 objections about that, and I have no interest, the court
4 was correct, I have no interest in finding out any
5 specific conversations that they had other than the fact
6 that these -- the only question I will be asking him
7 which will really I think Mr. Nahoum's perspective would
8 be pushing the envelope, is that contained in the
9 complaint which he has admitted that he has reviewed are
10 allegations which he knew or should have known were
11 false and I am going to want to ask him about whether he
12 discussed those specific allegations with his attorney
13 because I want to know whether he will -- since I know
14 they're false and we have documentary evidence they are
15 false, I want to know whether he told his attorney or
16 whether the attorney made assumptions, he didn't know
17 the attorney was making his allegations, and that's
18 specifically about whether there was an underlying
19 judgment or not. The documentary evidence says there
20 was not. The complaint alleges that known judgment
21 exists.

22 MR. NAHOUM: I would not object to a question
23 that asked whether or not a communication happened. I
24 would, of course, object when you step into the area of
25 what was said.

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1 THE COURT: I get that and I think that there
2 could be a way to phrase it in the sense of this
3 statement in the complaint at the time that you signed
4 this, were you aware of X, Y or Z. You can probe it.
5 You can't say if I tell my attorney that, did I tell the
6 attorney he even included that. You need him to adopt
7 that statement at the time. When you signed it, that
8 was the information that's in there is information Mr.
9 Nahoum you should be able to ask is this information you
10 gave your attorney. That's not going to strategy, is
11 it.

12 MR. NAHOUM: If the question is did you make.
13 it -- he reads a statement from the complaint and says
14 did you convey this information to your attorney, that's
15 objectionable because he is asking about a
16 communication, while it may be a statement in a
17 complaint, he is asking about a communication from the
18 client to the client's attorney. He can ask whether or
19 not it's true, he can ask whether or not he thought it
20 was true at the time. He can ask whether or not he
21 thinks it's true now, but if he asks did you tell this
22 to your lawyer, that's a communication between a
23 litigant and their counsel.

24 MR. NIERMAN: I'm trying to figure out his mind
25 set at the time the complaint was filed.

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1 MR. NAHOUM: Ask him that.

2 MR. NIERMAN: It's become evident by this
3 deposition that English is his second language and I'm
4 not saying that in any type of negative way other than
5 it makes asking questions that much more difficult
6 especially when I need to break it down.

7 MR. NAHOUM: I understand, but asking about
8 privilege that's not a way to get around.

9 THE COURT: You can ask him at the time he
10 signed. You can ask him his thoughts and his thought
11 process. You can ask him if that statement is something
12 that he signed the complaint, he was aware that it was
13 in the complaint, and at the time he signed the
14 complaint did he believe it was true, at the time he
15 signed it did he believe it was true. Does he now still
16 believe it's true and if the answer is no, he doesn't
17 believe it's true, now the next question is when did you
18 realize it wasn't true. Mr. Nahoum if there are true
19 retainer agreements, which I vaguely remember there were
20 being, he can ask when those retainer agreements were
21 signed.

22 MR. NAHOUM: I have no objection to that and I
23 was not aware whether there was one or two retainer
24 agreements, so this is something I wasn't aware of. I
25 have no objection to a line of questions about the

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1 timing of the retention. It's when you start talking
2 about the purpose and intent that you are stepping into
3 legal advice and case strategy.

4 MR. NIERMAN: I was only asking for a very broad
5 scope whether it was retained. I actually used that
6 analysis when I tried to explain it coming in in his
7 defense or the purpose of his suing me. I had a whole
8 build up to overcome any secondary language issues so he
9 would understand the representation of what I was asking
10 him.

11 MR. NAHOUM: There's a way to ask these
12 questions and a way not to and I'm objecting because I
13 need to protect the record here. You could fairly ask
14 did you retain counsel to defend you on the subpoena,
15 did you retain counsel to prosecute an FD CPA case. When
16 you start asking about what the strategy was that's what
17 I'm concerned with.

18 THE COURT: You can ask when did you retain them
19 and if he answer yes, then it's when did you retain
20 them. Now on the issue of payment, Mr. Nierman --

21 MR. NIERMAN: Just to be clear, he is very
22 likely going to say I don't know.

23 MR. NAHOUM: Then that's the answer.

24 THE COURT: There's nothing you can do about
25 that. If he says I don't know when he did this or I

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1 don't know when he did that, he reviewed it before it
2 was filed. You got him to say that?

3 MR. NIERMAN: He didn't remember when he saw the
4 document before he admitted that he saw it. When I
5 tried to ask him what context he saw it Mr. Nahoum had
6 an issue with that.

7 THE COURT: I think you can say when did you see
8 it, did you see it before May 30, 2017. Is everything
9 in this complaint accurate, was it accurate at the time
10 you saw it, was it accurate, is anything in the
11 statement not accurate at the time because he did not
12 sign this complaint.

13 MR. NIERMAN: He didn't sign it.

14 THE COURT: You can say -- you can ask him is it
15 all accurate and if he says something in here is not
16 accurate, he has to be able to ask him did you tell your
17 attorney that.

18 MR. NAHOUM: I'm trying to understand. If the
19 witness says this I understood this to not be true at
20 the time I read it or understand it now.

21 THE COURT: Or ever. If he ever says look, at
22 the time I originally read it everything was true and if
23 you sit here today what is not true, and then he said
24 this is not true. Then you can ask a followup question
25 when did you learn that, when did it become clear to you

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1 that it was not true. You can ask him did you tell your
2 attorney it was not true. Doesn't ask what the attorney
3 says, but the thing is that, you know, he is -- I would
4 think he would be entitled to know if the attorney knows
5 if something isn't true.

6 MR. NAHOUM: Yes, although I don't know that you
7 can ask him that. I'm trying to see how it's still not
8 a protected statement. I don't see what the exception
9 would be to the privilege.

10 THE COURT: Mr. Nierman, have you said anything
11 in this complaint, has he adopted all the statements in
12 this complaint as true?

13 MR. NIERMAN: I haven't asked him the question
14 yet. He said he is a very slow reader. He saw this a
15 long time ago and he has no idea if he saw it months ago
16 or years ago. He's certainly not going to know if he
17 saw it before or after May 30, 2017.

18 THE COURT: Did you determine that English
19 wasn't his first language?

20 MR. NAHOUM: No.

21 MR. NIERMAN: I haven't asked that question
22 although when I was asking to read things he mentioned
23 that he struggles with reading and he reads very slow
24 and he certainly speaks with an accent so I made that
25 assumption without actually putting that on the record.

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1 THE COURT: You need to put that on the record.

2 MR. NAHOUM: He hasn't been asked if English is
3 his first language, he hasn't been asked about the scope
4 of his education. When I asked him to read he read
5 rather slowly and that's why and he did ask when offered
6 that I read and he just confirm or whether he would be
7 allowed because he said he struggles with reading.

8 THE COURT: I think the issue is if any
9 communications that he has had with his attorney or his
10 attorney has had with him are privileged so I think you
11 can find out, you know, whether did he -- break it down,
12 did he sign two retainer agreements. He can say yes or
13 no or I don't remember. When he signed the first one
14 what was the first retainer agreement covering, what was
15 the second retainer agreement covering. I don't know if
16 there were two. I don't remember, and you can ask
17 questions about the complaint, has he read it, when did
18 he read it, are all the statements true, if they are not
19 true what is not true. If something is not true when
20 did he learn it wasn't true. We are not asking how he
21 learned it wasn't true, but when he learned it wasn't
22 true.

23 MR. NIERMAN: I want to ask this. Most of the
24 support stated in the complaint for the allegations, the
25 false allegations, that there was no underlying action

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1 is in paragraphs 40 through 48 of the complaint. It's
2 mostly allegations made by counsel himself about contact
3 that he made with the clerk and things like that which
4 obviously it's nothing that Mr. Levy is going to know
5 that, but if I ask about that, the key thing appears the
6 underlying action does not exist and that's why I want
7 to know whether he had any conversation, and if this is
8 privilege and I can't ask these I respect that.

9 THE COURT: You can only ask about the
10 conversation. Just say were you aware at any time that
11 this underlying action didn't exist or does exist.

12 MR. NAHOUM: We have been through that today in
13 the deposition and he testified after having his memory
14 refreshed he did remember.

15 THE COURT: That he remembered it did exist?

16 MR. NIERMAN: He didn't remember the judgment,
17 though. He said he remembered the existence of the
18 actions, but not the judgment.

19 MR. SCHNEPS: Your Honor, I wanted to ask if Mr.
20 Levy would say I now or at some point I came to the
21 conclusion that something in the complaint was not true,
22 so based upon the issue of privilege one could, however,
23 say to him what did you then do after you concluded that
24 something was not true.

25 THE COURT: I don't see anything wrong with

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1 asking that.

2 MR. NAHOUM: I don't have a problem with that.

3 THE COURT: You cannot ask the leading question.
4 You ask the open ended question. What, if anything,
5 once you realized it was not true what, if anything, did
6 you do.

7 MR. SCHNEPS: He said he contacted my attorney
8 no more.

9 THE COURT: You can't ask a leading question
10 here. In this area you have to be very careful about
11 asking open ended questions, what, if anything, did you
12 do when you learned that, what, if anything, did you
13 think when you received this subpoena. You want to ask
14 the open ended question.

15 MR. NIERMAN: I'm going to do my best to comply
16 with everything the Court is directing, and I want to be
17 clear on the record here. I have zero intention of
18 trying to breach any protected attorney client
19 privilege. I'm trying to find out what he did and how
20 this false information got in here and what he has done
21 about it.

22 THE COURT: I understand that. Unfortunately,
23 questions could be phrased in such a way that comes too
24 close to the line, so ask questions that are more open
25 ended, what, if anything, did you do, what, if anything,

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1 did you know.

2 MR. SCHNEPS: One fast thing, please. This
3 deposition is from Joseph Nierman pro se and I have not
4 asked any questions. Before we started, so to speak,
5 plaintiff's attorney actually said that since he
6 believed I did not formerly notice about taking a joint
7 deposition I wouldn't be allowed to ask questions anyway
8 and we did notice him, but our position was that since
9 these were court ordered discovery if I would want to
10 ask I would and he would either tell his client to
11 answer or not answer. I was curious if the court had
12 any opinion on this.

13 MR. NAHOUM: I think that's misstated my
14 position. What I said was that I didn't want the
15 witness to have to fend off two questioners at one time.
16 I said at the end of Mr. Nierman's examination if he had
17 any questions that he wanted to ask, that was fine. I
18 wasn't going to have both of them at the same time.

19 THE COURT: I think you guys are ready to go.

20 (Call with The Court has ended.)

21 Q. I think the last thing I asked for this
22 complaint to be entered in the record as Defense Exhibit
23 4. Mr. Levy, I'm returning again to this complaint
24 marked as Defense Exhibit 4 and ask if you can turn to
25 page five of eight, specifically paragraph 40. In the

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1 complaint it says paragraph 40, "more over the
2 underlying action appears not to exist". Do you see
3 that in paragraph 40?

4 A. Yes.

5 Q. To be specific, the underlying action, these
6 words here, the underlying action is referring to the
7 case that we discussed before where you were sued by
8 your landlord, so my question for you is first and
9 foremost as you sit here today, do you believe that case
10 does not exist?

11 MR. NAHOUM: Objection to form. You can answer
12 if you know what he is asking you.

13 Q. In paragraph 40 it says, "more over the
14 underlying action appears not to exist". As you sit
15 here today, do you believe that statement is true?

16 MR. NAHOUM: Objection to form. If you can
17 answer it, you can answer it.

18 A. I don't understand the question.

19 Q. Let's be clear here. Do you understand what the
20 underlying action in this sentence, "the underlying
21 action does not exist", do you understand what the
22 underlying action means?

23 A. No.

24 Q. Mr. Levy, are you originally from the United
25 States of America?

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1 A. No, from Israel.

2 Q. What is your in native language?

3 A. Hebrew.

4 Q. When did you learn English?

5 A. Slowly every day, I'm still learning even today.

6 Q. What I'm going to do, and I want to try and
7 break this down in a way that you can understand it.

8 This sentence, "moreover, the underlying action appears
9 not to exist". Do you see that sentence there in
10 paragraph 40, correct?

11 A. Yes.

12 Q. In the context of the complaint, the underlying
13 action is referring to a particular case, specifically
14 it's a case that you saw in the document you received in
15 the letter. Do you understand that?

16 MR. NAHOUM: Objection.

17 A. What was the question?

18 Q. I will rephrase it. I turn your attention to
19 Defense Exhibit 5 for a second. I'm going to pause and
20 go to Exhibit 5. You see that subpoena there?

21 A. Yes.

22 Q. You see the caption of the subpoena?

23 A. Yes.

24 Q. The caption of the subpoena there which is
25 Morrison and Yen as plaintiffs and you as defendant. Do

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1 you see that?

2 A. Yes.

3 Q. Do you understand what that caption references?

4 A. I don't understand what you are saying right
5 now.

6 Q. Do you understand what a plaintiff is?

7 A. No, not really.

8 Q. You don't know what a plaintiff is, any
9 plaintiff in the world?

10 MR. NAHOUM: Objection to form.

11 Q. A plaintiff is someone who sues somebody else.
12 Do you know what a defendant is?

13 A. Defendant I know.

14 Q. A caption is something that's identified in a
15 court case, the plaintiff and a defendant, the person
16 who is suing and the person who is being sued. Does
17 that make sense?

18 A. Yes.

19 Q. When you received the letter which had a
20 subpoena the subpoena had a caption. Do you see in the
21 subpoena where it has a caption there?

22 A. I see the box.

23 Q. You see where it says Morrison is the plaintiff?

24 A. Yes.

25 Q. You are the defendant?

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1 A. Yes.

2 Q. That's referencing a case a long time ago from
3 2010. Do you understand that?

4 A. Yeah.

5 Q. Specifically it's referenced in Defendant's
6 Exhibit 1. Do you see that?

7 A. Yes.

8 Q. Specifically we're talking about that judgement
9 where it says that Mr. Morrison and Mr. Yen have a
10 judgment against you for \$8,478, do you see that?

11 A. Yes.

12 Q. When you see the caption in Defendant's Exhibit
13 5 it's referring to that case in Defendant's Exhibit 1.
14 Do you understand that?

15 MR. NAHOUM: Objection.

16 Q. When your attorney drafted the complaint he
17 referred back to that case and he calls it the
18 underlying action?

19 MR. NAHOUM: Objection.

20 Q. Specifically in paragraph 40 where it says,
21 "moreover, the underlying action appears not to exist".
22 He is talking about the case with your landlord from
23 2010. Do you understand that?

24 MR. NAHOUM: Objection.

25 A. I don't understand nothing. I don't understand

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1 where you are jumping from a question to page 40 and
2 then you are taking it to an exhibit. It's been
3 draining me so my brain is not working right now.

4 Q. My objective is not to drain you right now.
5 It's just to find out what you understand. I want you
6 to understand this complaint when your attorney writes
7 the underlying action does not exist he is saying that
8 there was never a case --

9 MR. NAHOUM: Objection. Why don't you ask him
10 what he understands that paragraph to mean?

11 MR. NIERMAN: Very well.

12 Q. Mr. Levy, what do you understand that paragraph
13 40 means?

14 A. I really don't understand that paragraph.

15 Q. Do you understand that it serves as an
16 allegation that the case -- that there was never a case
17 brought against you?

18 MR. NAHOUM: Objection.

19 Q. I haven't finished my question -- that was
20 identified in New York Civil Court by 56136 2010 index
21 number?

22 A. Are you asking me a question?

23 Q. Yes, I am.

24 A. What was the question again? I thought you were
25 telling me something.

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1 Q. I'm asking you a question if I'm telling you so
2 that you can understand the question I'm asking you.

3 A. What's the question again?

4 Q. The case that's referenced in Defendant's
5 Exhibit 1 and in Defendant's Exhibit 5 has an index
6 number. Do you understand what an index number is?

7 A. Yeah.

8 Q. Do you understand what it means to have an index
9 number?

10 A. Yes.

11 Q. What is an index number?

12 A. It's a number.

13 Q. What does that mean?

14 A. A file number.

15 Q. There's the court's file number, a file number
16 assigned by the court. So in the subpoena and in the
17 judgment it references case number 56136 from the year
18 2010 in the New York Civil Court. Do you understand
19 that?

20 A. Yes.

21 Q. Sir, do you understand that?

22 A. I said yes.

23 Q. In paragraph 40 it states that the underlying
24 action appears not to exist which means this case number
25 of 56136 of 2010 in New York Civil Court in the City of

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1 New York does not exist?

2 MR. NAHOUM: Objection.

3 Q. Do you see that, sir?

4 MR. NAHOUM: What is your question?

5 A. I don't understand the question.

6 MR. NIERMAN: I'm trying to see what he
7 understands about this complaint and about the
8 allegations set forth in the complaint.

9 Q. Do you believe there was an action brought
10 against you by your landlord in 2010?

11 A. I don't remember.

12 Q. You said you knew about it before, you testified
13 about that earlier?

14 A. I said I knew there was something, but you asked
15 me -- repeat your question again.

16 Q. Do you believe there was an action that was
17 started against you by your landlord which is
18 identified?

19 A. Believe -- what's the word believe?

20 Q. You don't know what the word believe means?

21 A. I know believe, but do you know believe?

22 Q. It's a yes or no question.

23 A. It's not a yes or no question.

24 MR. NAHOUM: Why don't you rephrase the
25 question?

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1 Q. Do you think it's true that there was a case
2 against you that was brought by your landlord in New
3 York City civil court that's identified by the civil
4 court under index number 056136 in 2010?

5 A. I got to find out, I got to find out later, not
6 now, not as we speak now. Before that there was a
7 period of time that there was a case against me.

8 Q. You are aware that -- as we sit here today you
9 are aware there was a case against you?

10 A. There was a case against me, yes.

11 Q. As you sit here today you are aware that that's
12 true?

13 A. I'm aware it's true. No, what do you mean by
14 I'm aware it's true?

15 Q. You said you are aware there was a case against
16 you?

17 A. Yes, there's a case against me.

18 Q. When did you first learn that there was a case
19 against you?

20 A. When did I learn there's a case against me?

21 Q. Yes.

22 A. Be more specific with your question.

23 Q. The first time you learned about this case
24 against you was back in 2010; is that correct?

25 A. Absolutely not.

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1 Q. You didn't learn about this case in 2010?

2 A. Absolutely not. I don't remember it because
3 there's nothing I can remember about it.

4 Q. That implies there's something that you can
5 remember.

6 A. Once I received the letter from you, yes, once I
7 received the letter.

8 Q. That's not what I asked you before and that's
9 not what I'm asking you now. You are changing your
10 testimony from what you said before?

11 A. I didn't remember that there was a case.

12 Q. What does that mean that there was something?

13 A. I had personal issues going on.

14 Q. I don't know what that means or how that's
15 relevant.

16 A. Financially I had problems.

17 MR. NIERMAN: I will move to strike as
18 nonresponsive and ask that you answer my question.

19 Q. What do you remember about 2010?

20 A. I was in 2010 I was hospitalized for a while, so
21 that's why.

22 Q. That's why what?

23 A. That's why it's blurry. I don't remember it.

24 Q. When you looked at the judgment marked for
25 identification as Defendant's Exhibit 1 you seemed to

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1 remember that you had a court case?

2 A. The address you mentioned. I said the name is
3 familiar. We can go backward. Why don't you go back?

4 Q. Respectfully, sir, that is not what you
5 testified earlier. That's not what your counsel has
6 testified on the record that you testified earlier.

7 MR. NAHOUM: Objection.

8 MR. NIERMAN: You can object what you want, but
9 you stated on the record with the judge that you
10 admitted there was a court case.

11 MR. NAHOUM: Do you have a question for this
12 witness?

13 MR. NIERMAN: I'm wondering why I can't get a
14 straight answer to very simple yes or no questions.

15 MR. NAHOUM: Control yourself or I'm going to
16 cut this off.

17 MR. NIERMAN: You control yourself and you
18 control your client. Get him to at least answer a
19 question the same way twice.

20 A. I have been answering all your questions, any
21 question you ask. What I don't remember I don't
22 remember. It's not my problem you don't like my answer.

23 MR. NIERMAN: It's a matter that you are
24 answering inconsistently.

25 MR. NAHOUM: If he asks you a question answer

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1 it. Otherwise, you have nothing more to say. Ask him a
2 question.

3 MR. NIERMAN: I prefer that.

4 Q. As you sit here today, do you recall being
5 engaged in a lawsuit with your landlord in 2010?

6 A. No.

7 MR. NIERMAN: Off the record.

8 (Whereupon, an off the record discussion was
9 held.)

10 Q. Referring back to Defendant's Exhibit 4 marked
11 for identification on page five thereof, paragraph 40,
12 can you read that sentence please?

13 A. Underlying action does not exist.

14 Q. Do you think that's true?

15 A. We have been through this already.

16 Q. It's a yes or no question, sir. Yes or no, do
17 you think that's true?

18 A. Yes.

19 Q. Yes, it's true?

20 A. Yeah.

21 Q. It's true that the underlying action does not
22 exist?

23 A. Yes.

24 Q. That is your belief today, sir?

25 A. That's with 100 percent, yes.

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1 Q. As you sit here today, do you believe that
2 there's a judgment against you that was entered in an
3 action?

4 A. I believe yeah.

5 Q. You believe there was a judgment that was
6 entered against you?

7 A. I believe.

8 Q. Who do you believe holds that judgment?

9 A. It says on the paper Matt Morrison.

10 Q. As you sit here today, do you believe who that
11 is?

12 A. Who I believe it is?

13 Q. Yes, what relationship, if any, did you have
14 with him?

15 A. He was the landlord of an apartment on 42nd
16 Street. I have all the papers in front of me. That's
17 what it says.

18 Q. You believe that's a valid judgment?

19 MR. NAHOUM: Objection.

20 MR. NIERMAN: What is the objection, asked and
21 answered?

22 MR. NAHOUM: As to form. Mr. Levy, please get
23 close to your phone so the court reporter can hear you.

24 Q. Prior to today, did you believe that there was a
25 judgment held against you?

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1 A. Prior to today? What do you mean by prior?

2 Q. Yesterday did you believe there was a judgment
3 entered against you?

4 A. No.

5 Q. You only formed that belief during the course of
6 this deposition?

7 A. Yes.

8 Q. Now that you believe there's a judgment against
9 you, do you still believe there was no underlying
10 action?

11 A. Again, the question?

12 Q. Now that you recognize that there's a judgment,
13 do you believe there was an underlying action? Do you
14 believe there was a court case that lead to that
15 judgment?

16 A. I really don't know.

17 MR. NIERMAN: Let's take a break.

18 (Break taken.)

19 MR. NIERMAN: I'm done with my questions. I
20 believe Mr. Schneps has a couple of questions he wants
21 to ask.

22 EXAMINATION BY MR. SCHNEPS:

23 Q. Mr. Levy, I wanted to clarify with regard to the
24 trauma which you said you had. Did you consult with a
25 psychiatrist on that issue?

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1 A. No.

2 Q. Did you consult with a psychologist on that
3 issue?

4 A. No.

5 Q. Did you consult with any type of therapist in
6 mental health?

7 A. No.

8 Q. May I ask you why you did not consult with any
9 professional?

10 A. Because when I have a situation like this I'm a
11 member of alcohol anonymous and I could discuss this
12 with a sponsor. He helps me with my anxiety.

13 Q. I see. Okay. With regard to that issue, may I
14 ask how many times you consulted with him?

15 A. Daily.

16 Q. For how long?

17 A. A long time.

18 Q. When you say a long time, can you give me any
19 more definitive answer?

20 A. I have been consulting with him for the last 11
21 years. He is my sponsor.

22 MR. SCHNEPS: I have no other questions.

23 MR. NIERMAN: I have some followup questions
24 based on his responses to Mr. Schneps.

25 REDIRECT EXAMINATION BY MR. NIERMAN:

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1 Q. How many times did you consult with your sponsor
2 regarding the anxiety you felt in the letter?

3 A. A lot of times.

4 Q. More than 10 times?

5 A. More.

6 Q. Was it more than 20 times?

7 A. More.

8 Q. Was it more than 50 times?

9 A. Probably more.

10 Q. Over what period of time were you consulting
11 with your sponsor? I want to be clear. I'm not asking
12 about your general conversations with your sponsor. I'm
13 only talking specifically about conversations with your
14 sponsor about that related to the letter, so let's start
15 this over time. How many times did you consult with
16 your sponsor about the letter or any psychological
17 effects that resulted from the letter?

18 A. I don't remember.

19 Q. Was it more than 10 times?

20 A. Probably more.

21 Q. Was it more than 20 times?

22 A. Probably more.

23 Q. I'm referring exclusively to conversations that
24 involve discussions about the impact of the letter so
25 you are saying it was more than 20 times?

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1 A. Around, probably more. I really don't recall.

2 Q. Over what period of time were you having these
3 discussions with your sponsor?

4 A. I don't remember.

5 Q. Was it a period of longer than two weeks?

6 A. Probably. I don't remember.

7 Q. Was it for a period of longer than six months?

8 A. I don't remember.

9 Q. Does your sponsor hold any type of medical
10 professional license?

11 A. Yes.

12 Q. What type of license is that?

13 A. He is a consulting for alcoholic anonymous.

14 Q. Does he have any type of licensing in the
15 medical profession?

16 A. Yes, he does.

17 Q. What type of license?

18 A. A consulting for alcoholic anonymous. He works
19 with addicts.

20 Q. Did he or anyone ever advise that you seek
21 psychological assistance from another medical
22 professional?

23 A. No.

24 Q. What is the name of your sponsor?

25 A. Mike Appel.

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1 Q. How do you spell the last name, sir?

2 A. I don't know.

3 Q. Do you have any contact information for Mr.
4 Appel?

5 A. Yes, I do.

6 Q. What's his phone number?

7 A. I have to get it for you?

8 Q. I would appreciate that. I can wait.

9 A. Before I do that I have to see if he's okay with
10 it.

11 MR. NIERMAN: I'll leave a blank space.

12 MR. NAHOUM: Why don't you do a followup?

13 MR. NIERMAN: I call for production for all
14 contact information related to Mike Appel.

15 Q. Do you have any other sponsors that you conduct
16 with?

17 A. No, he is the only one.

18 Q. Have you discussed this letter with any other
19 people?

20 A. I don't remember.

21 Q. Did this letter cause you to drink?

22 A. No.

23 MR. NIERMAN: No further questions.

24 CROSS EXAMINATION BY MR. NAHOUM:

25 Q. You testified before that English is not your

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1 first language; is that right?

2 A. Right.

3 Q. Your native language is Hebrew, correct?

4 A. Correct.

5 Q. How long have you been speaking English?

6 A. I'm sorry?

7 Q. How long have you been speaking English?

8 A. Long time, many years. For some reason it
9 doesn't click.

10 Q. Some of the trouble you had with reading, is
11 that a problem with reading English or reading in
12 general?

13 A. No, reading English.

14 Q. As a consequence of your English, did you
15 understand all of the questions asked of you today or
16 did you have trouble understanding some of the questions
17 asked of you today?

18 MR. NIERMAN: Objection, leading. I'm objecting
19 to this question.

20 MR. NAHOUM: It's a deposition. I can lead him.
21 Go ahead and answer the question.

22 MR. NIERMAN: You cannot lead your own client.
23 That's absurd. It's a ridiculous question. You are
24 basically saying that everything he testified to -- he
25 didn't understand anything I was asking him. I'm

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1 objecting to this question and to any answer. It's an
2 objective clearly to undermine anything that's happened
3 in this deposition and that's why I'm objecting to this
4 question and I'm calling an end if you ask another
5 question to that.

6 MR. NAHOUM: You didn't do your job here today.
7 I'm going to ask him the questions.

8 MR. NIERMAN: I asked him about his English. I
9 told him I started with that at the very beginning
10 though you are trying to have him back down from his
11 testimony by claiming he didn't understand.

12 MR. NAHOUM: When he said he did not understand
13 the question you badgered him.

14 MR. NIERMAN: I changed the question.

15 Q. Mr. Levy, do you think you might have better
16 understood the questions asked of you today if you had
17 an interpreter.

18 A. Absolutely.

19 MR. NAHOUM: I will reserve the right for Mr.
20 Levy to have the opportunity to issue an errata sheet
21 and review any issues any mistakes therein.

22 MR. NIERMAN: Thank you very much.

23 THE COURT REPORTER: Mr. Nahoum, do you want a
24 copy?

25 MR. NAHOUM: Yes, please provide a copy.

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1 (The deposition was concluded.)

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1 CERTIFICATE

2

3 I, STACEY J. ORLICK, a Notary Public and
4 C.S.R. of the State of New Jersey, License No.
5 XI00226700, do hereby certify that prior to the
6 commencement of the examination SHAUL LEVY was duly
7 sworn by me to testify the truth, the whole truth and
8 nothing but the truth.

9 I DO FURTHER CERTIFY that the foregoing is a
10 true and accurate transcript of the testimony as taken
11 stenographically by and before me at the time, place and
12 on the date hereinbefore set forth.

13 I DO FURTHER CERTIFY that I am neither a
14 relative nor employee nor attorney nor counsel of any of
15 the parties to this action, and that I am neither a
16 relative nor employee of such attorney or counsel, and
17 that I am not financially interested in the action.

18 _____

19 Notary Public of the State of New Jersey

20 My Commission expires June 2022

21 Dated:

22

23

24

25

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